UNITED STATES DISTRICT COURT EASTERN DISTRICT OF TENNESSEE AT KNOXVILLE

TONY T. PRICE,)	
Plaintiff,)	
v.)	No. 3:18-CV-459-DCP
ANDREW SAUL,)	
Commissioner of Social Security,)	
Defendant.)	
	ORDER	

This case is before the undersigned pursuant to 28 U.S.C. § 636, the Rules of this Court, and Standing Order 13-02. Now before the Court is Plaintiff's Motion to Substitute Party [Doc. 25], filed on January 6, 2020.

In the Motion to Substitute Party [Doc. 25] and accompanying Memorandum in Support [Doc. 26], Plaintiff's counsel states that he was notified that Plaintiff died on July 12, 2019, Plaintiff was divorced at the time of his death, and Plaintiff is survived by his daughter—Karrie Murr. Plaintiff's counsel also attaches Plaintiff's death certificate. *See* [Doc. 26-1]. Therefore, Plaintiff's counsel seeks to substitute Karrie Murr as the appropriate party in this matter pursuant to Federal Rule of Civil Procedure 25(a). Defendant has not responded in opposition to the Motion, and the time for doing so has expired. *See* E.D. Tenn. L.R. 7.2 ("Failure to respond to a motion may be deemed a waiver of any opposition to the relief sought.").

Pursuant to Federal Rule of Civil Procedure 25(a), "[i]f a party dies and the claim is not extinguished, the court may order substitution of the proper party." In Social Security Disability Insurance Benefits ("DIB") or Supplement Security Income cases ("SSI"), the claim does not extinguish and the proper party may be entitled to underpayments. *See* 20 C.F.R. §§ 404.503 and

416.542. Under 20 C.F.R. § 404.503, the order of priority for an underpayment first lists the deceased individual's surviving spouse, followed by the child or children of the deceased individual. Plaintiff's counsel has properly filed and served Plaintiff's death certificate, as well as noted Ms. Murr as the appropriate party. Accordingly, the Motion to Substitute Party [Doc. 25] is **GRANTED**, and Karrie Murr shall be **SUBSTITUTED** as Plaintiff of record in this matter.

IT IS SO ORDERED.

ENTER:

Debra C. Poplin

United States Magistrate Judge